



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, वीरवार, 3 अक्तूबर, 2013 / 11 आश्विन, 1935

हिमाचल प्रदेश सरकार

TRANSPORT DEPARTMENT

NOTIFICATION

Shimla-02, the 30th September, 2013

No. TPT-F (6)6/2003-III.—In supersession of this department's Notification No. TPT-F(6)-6/2003-III dated 8th March, 2010, the Governor, Himachal Pradesh in exercise of the powers

conferred by sub-section(1) of Section-67 of the Motor Vehicles Act,1988(Act No. 59 of 1988) is pleased to issue following directions to the State Transport Authority, Himachal Pradesh, Shimla-04 and all Regional Transport Authorities in Himachal Pradesh regarding fixation of fare rates of stage carriage bus services in Himachal Pradesh.

Directions :

The State Transport Authority Himachal Pradesh and all Regional Transport Authorities in Himachal Pradesh shall ensure that the following rates of fares are fixed/charged for stage carriage bus services in the State of Himachal Pradesh in the public interest.

**I) (Ordinary Bus Services including Mini Buses)
(Fare per passenger per kilometer in paise)**

- (i) Roads in Plains 90
- (ii) Roads in Hills 145

**II) (Deluxe Bus Service)
(Fare per passenger per kilometer in paise)**

- (i) Roads in Plains 110
- (ii) Roads in Hills 180

**III) (AC/Volvo Bus Service)
(Fare per passenger per Kilometer in paise)**

- (i) Roads in Plains 220
- (ii) Roads in Hills 300

2. The fares shown above are maximum fares inclusive of all taxes. These directions will come into force *w.e.f.* 01.10.2013.

Note:- The minimum fare shall be Rs.5/- .The fraction of rupee *i.e.* 50 paise or above will be rounded off to next rupee and fraction of rupee below 50 paise shall be ignored.

By order,
Dr. P. C. Kapoor,
Additional Chief Secretary (Transport).

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001

NOTIFICATION

Shimla, the 28th September, 2013

No. HHC/Admn.6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Civil Judge (Senior Division)-*cum*-Chief Judicial Magistrate, Kullu as Drawing and Disbursing Officer in respect of the Courts of District and Sessions Judge, Kullu, Additional District and sessions Judge, Kullu (presently lying vacant), Civil Judge (Senior Division)-*cum*-

CJM, Lahaul & Spiti at Kullu and Civil Judge (Junior Division)-cum-JMIC, Manali and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishment attached to the aforesaid Courts under Major Head "2014-Administration of Justice" *w.e.f.* 30.9.2013 to 5.10.2013.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001

NOTIFICATION

Shimla, the 28th September, 2013

No. HHC/Admn.6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Additional District and Sessions Judge, Ghumarwin as Drawing and Disbursing Officer in respect of the Court of District and Sessions Judge, Bilaspur and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishment attached to the aforesaid Court under Major Head "2014-Administration of Justice" *w.e.f.* 29.9.2013 to 5.10.2013 or until his return to Headquarter.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001

NOTIFICATION

Shimla, the 28th September, 2013

No.HHC/Admn.6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate, Rampur Bushahar as Drawing and Disbursing Officer in respect of the Court of Civil Judge (Junior Division)-cum-JMIC, Anni and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishment attached to the aforesaid Court under Major Head "2014- Administration of Justice" with immediate effect till the posting of new Presiding Officer in that Court.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH , SHIMLA-171001**NOTIFICATION***Shimla, the 28th September, 2013*

No. HHC/GAZ/ 14-238/99.—Hon'ble the Chief Justice has been pleased to grant ex post facto sanction of 16 days' commuted leave *w.e.f.* 3.9.2013 to 18.9.2013 in favour of Shri Pawanjit Singh, Civil Judge (Senior Division)-cum- Chief Judicial Magistrate, Solan, H.P.

Certified that Shri Pawanjit Singh has joined the same post and at the same station from where he had proceeded on leave, after expiry of the above period of leave.

Also certified that Shri Pawanjit Singh would have continued to hold the same post of Civil Judge (Senior Division)-cum-Chief Judicial Magistrate, Solan, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

विधि विभाग

अधिसूचना

शिमला-2, 01 अक्टूबर, 2013

संख्या: एल0एल0आर0डी0(6)40/2013.—हिमाचल प्रदेश की राज्यपाल, भारत के संविधान के अनुच्छेद 213(1) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए, दिनांक 1-10-2013 को अनुमोदित हिमाचल प्रदेश न्यायालय (संशोधन) अध्यादेश, 2013 (2013 का अध्यादेश संख्यांक 5) को संविधान के अनुच्छेद 348(3) के अधीन उसके अंग्रेजी पाठ सहित हिमाचल प्रदेश ई-राजपत्र में प्रकाशित करती हैं।

आदेश द्वारा,
चिराग भानू सिंह,
सचिव (विधि)।

2013 का हिमाचल प्रदेश अध्यादेश संख्यांक 5

हिमाचल प्रदेश न्यायालय (संशोधन) अध्यादेश, 2013

भारत गणराज्य के चौंसठवें वर्ष में हिमाचल प्रदेश की राज्यपाल द्वारा प्रख्यापित।

हिमाचल प्रदेश न्यायालय अधिनियम, 1976 (1976 का अधिनियम संख्यांक 23) का और संशोधन करने के लिए अध्यादेश।

हिमाचल प्रदेश विधान सभा सत्र में नहीं है और हिमाचल प्रदेश की राज्यपाल का समाधान हो गया है कि ऐसी परिस्थितियां विद्यमान हैं जिनके कारण उनके लिए तुरन्त कार्रवाई करना आवश्यक हो गया है;

अतः हिमाचल प्रदेश की राज्यपाल भारत के संविधान के अनुच्छेद 213 के खण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित अध्यादेश प्रख्यापित करती हैं:—

1. **संक्षिप्त नाम.**—इस अध्यादेश का संक्षिप्त नाम हिमाचल प्रदेश न्यायालय (संशोधन) अध्यादेश, 2013 है।

2. **धारा 10 का संशोधन.**—हिमाचल प्रदेश न्यायालय अधिनियम, 1976 (1976 का 23) (जिसे इसमें इसके पश्चात् “मूल अधिनियम” कहा गया है) की धारा 10 में, “पन्द्रह लाख” शब्दों के स्थान पर “तीस लाख” शब्द रखे जाएंगे।

3. **धारा 21 का संशोधन.**—मूल अधिनियम की धारा 21 की उपधारा (1) के खण्ड (क) में, “दस लाख” शब्दों के स्थान पर “बीस लाख” शब्द रखे जाएंगे।

(उर्मिला सिंह)
राज्यपाल।

(चिराग भानू सिंह)
सचिव (विधि)।

शिमला :
तारीख :....., 2013

AUTHORITATIVE ENGLISH TEXT

H.P. ORDINANCE NO. 5 OF 2013

THE HIMACHAL PRADESH COURTS (AMENDMENT) ORDINANCE, 2013

Promulgated by the Governor of Himachal Pradesh in the Sixty-fourth Year of the Republic of India.

AN

ORDINANCE

further to amend the Himachal Pradesh Courts Act, 1976 (Act No. 23 of 1976)

WHEREAS, the Legislative Assembly of Himachal Pradesh is not in session and the Governor is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause(1) of article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to promulgate the following Ordinance:—

1. **Short title.**—This Ordinance may be called the Himachal Pradesh Courts (Amendment) Ordinance, 2013.

2. Amendment of section 10.—In section 10 of the Himachal Pradesh Courts Act, 1976 (23 of 1976) (hereinafter referred to as the "principal Act"), for the words "fifteen lakh", the words "thirty lakh" shall be substituted.

3. Amendment of section 21.—In section 21 of the principal Act, in sub-section (1), in clause (a), for the words "ten lakh", the words "twenty lakh" shall be substituted.

(URMILA SINGH)

Governor.

(CHIRAG BHANU SINGH)

Secretary (Law).

SHIMLA :

Dated.....2013

निर्वाचन विभाग

अधिसूचना

शिमला—171009, 01 अक्टूबर, 2013

संख्या 5-35/2012-ईएलएन.—हिमाचल प्रदेश की राज्यपाल, भारत के संविधान के अनुच्छेद-309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, हिमाचल प्रदेश निर्वाचन विभाग में तहसीलदार (निर्वाचन), वर्ग-I (राजपत्रित) (अलिपिक वर्गीय सेवाएं) के पद के लिए इस अधिसूचना से संलग्न उपाबन्ध—“क” के अनुसार निम्नलिखित भर्ती और प्रोन्नति नियम बनाती हैं, अर्थात्:—

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश निर्वाचन विभाग तहसीलदार (निर्वाचन), वर्ग-I राजपत्रित (अलिपिक वर्गीय सेवाएं) भर्ती और प्रोन्नति नियम, 2013 है।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से प्रवृत्त होंगे।

2. निरसन और व्यावृत्तियां.—(1) इस विभाग की अधिसूचना संख्या 5-31/86-ईएलएन., तारीख 22 सितम्बर, 1988 द्वारा अधिसूचित हिमाचल प्रदेश निर्वाचन विभाग वर्ग-2 (राजपत्रित सेवाएं) निर्वाचन अधिकारी, अनुभाग अधिकारी और तहसीलदार (निर्वाचन) भर्ती एवं प्रोन्नति नियम, 1988 का उस विस्तार तक निरसन किया जाता है, जहां तक यह तहसीलदार (निर्वाचन) के पद से सम्बन्धित हैं।

(2) ऐसे निरसन के होते हुए भी उपर्युक्त उप नियम 2(1) के अधीन इस प्रकार निरसित नियमों के अधीन की गई कोई नियुक्ति, बात या कार्रवाई इन नियमों के अधीन विधिमान्य रूप में की गई समझी जाएगी।

आदेश द्वारा,
हस्ताक्षरित/—
प्रधान सचिव (निर्वाचन)।

**हिमाचल प्रदेश निर्वाचन विभाग में तहसीलदार (निर्वाचन), वर्ग-I (राजपत्रित) के पद के
भर्ती और प्रोन्नति नियम**

1. पद का नाम.—तहसीलदार (निर्वाचन)
2. पद (पदों) की संख्या.—12 (बारह)
3. वर्गीकरण.—वर्ग-I, (राजपत्रित) (अलिपिक वर्गीय सेवाएं)
4. वेतनमान.—10300-34800/- रूपए जमा 5000/- रूपए ग्रेड पे।
5. चयन पद अथवा अचयन पद.—चयन।
6. सीधी भर्ती किए जाने वाले व्यक्तियों के लिये आयु.—लागू नहीं।
7. सीधी भर्ती के लिए अपेक्षित न्यूनतम शैक्षिक और अन्य अर्हताएं.—(क) अनिवार्य अर्हताएं—लागू नहीं।
(ख) वांछनीय अर्हताएं.—लागू नहीं।
8. सीधे भर्ती किए जाने वाले व्यक्तियों के लिए विहित आयु और शैक्षिक अर्हताएं प्रोन्नत व्यक्ति(यों) की दशा में लागू होंगी या नहीं :
आयु.— लागू नहीं।
शैक्षिक अर्हता.—लागू नहीं।
9. परीक्षा की अवधि, यदि कोई हो.—दो वर्ष, जिसका एक वर्ष से अनधिक ऐसी और अवधि के लिए विस्तार किया जा सकेगा, जैसा सक्षम प्राधिकारी विशेष परिस्थितियों में और लिखित कारणों से आदेश दे।
10. भर्ती की पद्धति.—भर्ती सीधी होगी या प्रोन्नति, सेकण्डमेंट, स्थानान्तरण द्वारा और विभिन्न पद्धतियों द्वारा भरे जाने वाले पदों की प्रतिशतता.—शतप्रतिशत प्रोन्नति द्वारा।
11. प्रोन्नति, सेकण्डमेंट, स्थानान्तरण की दशा में श्रेणियां (ग्रेड), जिनसे प्रोन्नति, सेकण्डमेंट, स्थानान्तरण किया जाएगा.—(i) नायब-तहसीलदार (निर्वाचन) में से प्रोन्नति द्वारा जिनका तीन वर्ष का नियमित सेवाकाल या ग्रेड में की गई लगातार तदर्थ सेवा, यदि कोई हो, को सम्मिलित करके तीन वर्ष का नियमित सेवाकाल हो, ऐसा न होने पर नायब-तहसीलदार (निर्वाचन) में से प्रोन्नति द्वारा जिनका नायब-तहसीलदार (निर्वाचन) और निर्वाचन कानूनगो के रूप में संयुक्ततः सात वर्ष का नियमित सेवाकाल या की गई लगातार तदर्थ सेवा सहित सात वर्ष का नियमित सेवाकाल हो :

. . . 60 प्रतिशत

(ii) अधीक्षक, ग्रेड-II में से प्रोन्नति द्वारा, जिनका तीन वर्ष का नियमित सेवाकाल या ग्रेड में की गई लगातार तदर्थ सेवा, यदि कोई हो, को सम्मिलित करके तीन वर्ष का नियमित सेवाकाल हो, ऐसा न होने पर अधीक्षक, ग्रेड.प में से प्रोन्नति द्वारा, जिनका अधीक्षक, ग्रेड-II और वरिष्ठ सहायक के रूप में संयुक्ततः सात वर्ष का नियमित सेवाकाल या की गई लगातार तदर्थ सेवा सहित सात वर्ष का नियमित सेवाकाल हो :

. . . 40 प्रतिशत

परन्तु तहसीलदार (निर्वाचन) के रिक्त पदों को भरने हेतु निम्नलिखित 12 बिन्दु पद आधारित रोस्टर का अनुसरण किया जाएगा:—

रोस्टर बिन्दु संख्या

श्रेणी

पहला, तीसरा, पांचवां, सातवां,
आठवां, दसवां और ग्यारहवां

नायब-तहसीलदार (निर्वाचन)

दूसरा, चौथा, छठा, नवां एवं बारहवां

अधीक्षक, ग्रेड-II

टिप्पणी.—रोस्टर प्रत्येक बारहवें पद के पश्चात् तब तक दोहराया जाता रहेगा, जब तक दोनों प्रवर्गों को दी गई प्रतिशतता तक प्रतिनिधित्व प्राप्त नहीं हो जाता और तत्पश्चात् रिक्ति को उसी प्रवर्ग में से भरा जाएगा, जिससे पद रिक्त हुआ हो :

परन्तु प्रोन्नति के प्रयोजन के लिए प्रत्येक कर्मचारी को जनजातीय/दुर्गम क्षेत्रों में पद (पदों) की ऐसे क्षेत्रों में पर्याप्त संख्या की उपलब्धता के अध्वधीन, कम से कम एक कार्यकाल तक सेवा करनी होगी:

परन्तु यह और कि उपर्युक्त परन्तुक उन कर्मचारियों के मामले में लागू नहीं होगा, जिनकी अधिवर्षिता के लिए पांच वर्ष या उससे कम की सेवा शेष रहती हो:

परन्तु यह और भी कि उन कर्मचारियों को, जिन्होंने जनजातीय/दुर्गम क्षेत्र में कम से कम एक कार्यकाल तक सेवा नहीं की है, ऐसे क्षेत्र में उसके अपने संवर्ग (काडर) में सर्वथा वरिष्ठता के अनुसार स्थानान्तरित किया जाएगा।

स्पष्टीकरण I.—उपर्युक्त परन्तुक (1) के प्रयोजन के लिए जनजातीय/दुर्गम क्षेत्रों में “कार्यकाल” से साधारणतः तीन वर्ष की अवधि या प्रशासनिक अपेक्षाओं और कर्मचारी द्वारा किए गए कार्य को ध्यान में रखते हुए ऐसे क्षेत्रों में तैनाती की इससे कम अवधि अभिप्रेत होगी।

स्पष्टीकरण II.—उपर्युक्त परन्तुक के प्रयोजन के लिए जनजातीय/दुर्गम क्षेत्र निम्न प्रकार से होंगे:—

1. जिला लाहौल एवं स्पिति।
2. चम्बा जिला का पांगी व भरमौर उप मण्डल।
3. रोहडू उप मण्डल का डोडरा-क्वार क्षेत्र।
4. जिला शिमला की रामपुर तहसील का पन्द्रह बीस परगना, मुनीष दरकाली और ग्राम पंचायत काशापाट।
5. कुल्लू जिला का पन्द्रह बीस परगना।
6. कांगड़ा जिला के बैजनाथ उप मण्डल का बड़ा भंगाल क्षेत्र।
7. जिला किन्नौर।
8. सिरमौर जिला में उप तहसील कमरऊ के काठवाड और कोरगा पटवार वृत्त, रेणुकाजी तहसील के भलाड़-भलौना और सांगना पटवार वृत्त और शिलाई तहसील का कोटा पाब पटवार वृत्त।

9. मण्डी जिला में करसोग तहसील का खन्योल-बगड़ा पटवार वृत्त बालीचौकी उप तहसील के गाड़ा गुसैणी, मठयानी, घनयाड़, थाची, बागी, सोमगाढ़ और खोलानाल, पद्धर तहसील के झारवाड़, कुटगढ़, ग्रामण, देवगढ़, त्रैला, रोपा, कथोग, सिलह-भड़वानी, हस्तपुर, घमरेहड़ और भटेड़ पटवार वृत्त, थुनाग तहसील के चिउणी, कालीपर, मनगढ़, थाच-बगड़ा, उत्तरी मगरू और दक्षिणी मगरू पटवार वृत्त और मण्डी जिला की सुन्दरनगर तहसील का बटवाड़ा पटवार वृत्त।

(1) प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व सम्भरण पद में की गई लगातार तदर्थ सेवा, यदि कोई हो, प्रोन्नति के लिए इन नियमों में यथाविहित सेवाकाल के लिए, इस शर्त के अधीन रहते हुए गणना में ली जाएगी, कि सम्भरण प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति, भर्ती और प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्वीकार्य प्रक्रिया को अपनाने के पश्चात् की गई थी ;

परन्तु उन सभी मामलों में जिनमें कोई कनिष्ठ व्यक्ति सम्भरण पद में अपने कुल सेवाकाल (तदर्थ आधार पर की गई तदर्थ सेवा सहित, जो नियमित सेवा/नियुक्ति के अनुसरण में हो) के आधार पर उपर्युक्त निर्दिष्ट उपबन्धों के कारण विचार किए जाने का पात्र हो जाता है, वहां अपने-अपने प्रवर्ग/पद/काडर में उससे वरिष्ठ सभी व्यक्ति विचार किए जाने के पात्र समझे जाएंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रखे जाएंगे ;

परन्तु यह और कि उन सभी पदाधिकारियों की, जिन पर प्रोन्नति के लिए विचार किया जाना है, कम से कम तीन वर्ष की न्यूनतम अर्हता सेवा या पद के भर्ती एवं प्रोन्नति नियमों में विहित सेवा, जो भी कम हो, होगी ;

परन्तु यह और भी कि जहां कोई व्यक्ति पूर्वगामी परन्तुक की अपेक्षाओं के कारण प्रोन्नति किए जाने सम्बन्धी विचार के लिए अपात्र हो जाता है, वहां उससे कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के विचार के लिए अपात्र समझा जाएगा/समझे जाएंगे।

स्पष्टीकरण.—अन्तिम परन्तुक के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जाएगा, यदि वरिष्ठ अपात्र व्यक्ति भूतपूर्व सैनिक है, जिसे डिमोवलाईज्ड आमर्ड फोर्सिज परसोनल (रिजर्वेशन आफ वेकैन्सीज इन हिमाचल स्टेट नान-टैक्नीकल सर्विसीज)रूल्ज, 1972 के नियम-3 के उपबन्धों के अन्तर्गत भर्ती किया गया हो और इनके अन्तर्गत वरीयता लाभ दिए गए हों या जिसे एक्स सर्विसमैन (रिजर्वेशन आफ वेकैन्सीज इन दी हिमाचल प्रदेश टैक्नीकल सर्विसीज)रूल्ज, 1985 के नियम-3 के उपबन्धों के अन्तर्गत भर्ती किया गया हो और इनके अन्तर्गत वरीयता लाभ दिए गए हों।

(2) इसी प्रकार स्थाईकरण के सभी मामलों में ऐसे पद पर नियमित नियुक्ति से पूर्व की सम्भरण पद पर की गई लगातार तदर्थ सेवा, यदि कोई हो, सेवाकाल के लिए गणना में ली जाएगी, यदि तदर्थ नियुक्ति/प्रोन्नति उचित चयन के पश्चात् और भर्ती एवं प्रोन्नति, नियमों के उपबन्धों के अनुसार की गई थी:

परन्तु उपर्युक्त निर्दिष्ट तदर्थ सेवा को गणना में लेने के पश्चात् जो स्थाईकरण होगा, उसके फलस्वरूप पारस्परिक वरीयता अपरिवर्तित रहेगी।

12. यदि विभागीय प्रोन्नति समिति विद्यमान हो, तो उसकी संरचना.—विभागीय प्रोन्नति समिति की अध्यक्षता हिमाचल प्रदेश लोक सेवा आयोग के अध्यक्ष या उसके द्वारा नामनिर्दिष्ट आयोग के सदस्य द्वारा की जाएगी।

13. भर्ती करने में जिन परिस्थितियों में हिमाचल प्रदेश लोक सेवा आयोग से परामर्श किया जाएगा.—जैसा विधि द्वारा अपेक्षित हो।

14. सीधी भर्ती के लिए अपेक्षा.—लागू नहीं।

15. सीधी भर्ती द्वारा पद पर नियुक्ति के लिए चयन.—लागू नहीं।

16. आरक्षण.—सेवा में नियुक्ति, हिमाचल प्रदेश सरकार द्वारा समय-समय पर अनुसूचित जातियों/अनुसूचित जनजातियों/अन्य पिछड़े वर्गों और अन्य प्रवर्गों के व्यक्तियों के लिए सेवा में आरक्षण की बाबत जारी किए गए अनुदेशों के अधीन होगी।

17. विभागीय परीक्षा.—सेवा में प्रत्येक सदस्य को समय-समय पर यथा संशोधित हिमाचल प्रदेश विभागीय परीक्षा नियम, 1997 में यथा विहित विभागीय परीक्षा पास करनी होगी।

18. शिथिल करने की शक्ति.—जहां राज्य सरकार की यह राय हो कि ऐसा करना आवश्यक या समीचीन है, वहां वह कारणों को लिखित में अभिलिखित करके और हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, आदेश द्वारा, इन नियमों के किन्हीं उपबन्ध को किसी वर्ग या व्यक्ति(यों) के प्रवर्ग या पद (पदों) की बाबत शिथिल कर सकेगी।

[Authoritative English text of this Department's Notification No. 5-35/2012-ELN, dated 1st October, 2013 as required under Clause (3) of Article-348 of the Constitution of India].

ELECTION DEPARTMENT

NOTIFICATION

Shimla-171009, the 1st October, 2013

No. 5-35/2012-ELN.—In exercise of the powers conferred by proviso to Article-309 of the Constitution of India, the Governor, Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission, is pleased to make the following Recruitment & Promotion Rules for the post of Tehsildar (Election), Class-I(Gazetted) (Non-Ministerial Services) in the Election Department, Himachal Pradesh as per **Annexure-“A”** attached to this notification, namely:—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Election Department, Tehsildar (Election), Class-I, Gazetted (Non-Ministerial Services) Recruitment & Promotion Rules, 2013.

(2) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Repeal and savings.—(1) The Himachal Pradesh Election Department Class-II (Gazetted Services) Electoral Officer, Section Officer and Tehsildar (Elections) Recruitment and Promotion Rules, 1988, notified vide this department's notification No.5-31/86-ELN, dated 22-9-1988 are hereby repealed to the extent these pertain to the post of Tehsildar (Election).

(2) Notwithstanding such repeal, any appointment made, or anything done or any action taken under Rules, so repealed under Sub-rule 2(1) supra shall be deemed to have been validly made, done or taken under these Rules.

By order,
Sd/-

Principal Secretary (Election).

**RECRUITMENT AND PROMOTION RULES FOR THE POST OF TEHSILDAR
(ELECTION), CLASS-I, (GAZETTED), IN THE DEPARTMENT OF ELECTION,
HIMACHAL PRADESH**

1. **Name of the Post.**— Tehsildar (Election).
2. **Number of Post(s).**— 12 (Twelve)
3. **Classification.**— Class-I, (Gazetted) (Non-Ministerial Services)
4. **Scale of Pay.**—Rs.10300-34800/- plus 5000/- Grade Pay.
5. **Whether “selection” post or “non-selection” post.**—Selection.
6. **Age for direct recruitment.**—Not applicable.
7. **Minimum educational and other qualifications required for direct recruitment:**
 - (a) *Essential Qualification(s).*—Not applicable.
 - (b) *Desirable Qualification.*—Not applicable.
8. **Whether age and educational qualifications prescribed for direct recruits will apply in the case of the promotee(s)? :**

Age.—Not applicable.

Educational Qualification.—Not applicable.
9. **Period of probation, if any.**—Two years subject to such further extension for a period not exceeding one year as may be ordered by the competent authority in special circumstances and reasons to be recorded in writing.
10. **Method of recruitment.**—*whether by direct recruitment or by promotion, secondment, transfer and the percentage of post(s) to be filled in by various methods.*—100% by promotion.
11. **In case of recruitment by promotion, secondment, transfer, grades from which promotion/secondment, transfer is to be made.**—(i) By promotion from amongst the Naib-Tehsildars (Election) with three years regular service or regular combined with continuous adhoc service rendered, if any, in the grade failing which by promotion from amongst the Naib-Tehsildars (Election) having Seven years regular service or regular combined with continuous adhoc service combined as Naib-Tehsildars (Election) and Election Kanungos.

... 60%.

(ii) By promotion from amongst the Superintendents, Grade-II, having three years regular service or regular combined with continuous adhoc service rendered, if any, in the grade failing which by promotion from amongst the Superintendents, Grade-II having seven years regular service or regular combined with continuous adhoc service combined as Superintendents, Grade-II and Senior Assistant.

... 40%

Provided that for filling up the posts of Tehsildar(Election) the following 12 points post based roster shall be followed:—

Roster Point No.	Category
1st, 3rd, 5th, 7th, 8th, 10th & 11 th	Naib-Tehsildar (Election)
2nd, 4th, 6th, 9th & 12th	Superintendent, Grade-II.

Note.—This roster will be repeated after every 12th post till the representation to both the feeder categories is achieved by the given percentage and thereafter the vacancy shall be filled up from the category which vacates the post.

Provided that for the purpose of promotion every employee shall have to serve at least one term in the Tribal/Difficult areas subject to adequate number of post(s) available in such areas;

Provided further that the proviso (I) supra shall not be applicable in the case of those employees who have five years or less service, left for superannuation;

Provided further that Officers/Officials who have not served at least one tenure in Tribal/Difficult area shall be transferred to such area strictly in accordance with his/her seniority in the respective cadre.

Explanation I.—For the purpose of proviso (I) supra the “term” in Tribal/Difficult Areas shall mean normally three years or less period of posting in such areas keeping in view the administrative requirements and performance of the employee.

Explanation II.—For the purpose of proviso supra the Tribal/Difficult Areas shall be as under:—

1. District Lahaul & Spiti.
2. Pangi and Bharmour Sub Division of Chamba District.
3. Dodra Kwar Area of Rohru Sub-Division.
4. Pandrah Bis Pargana, Munish Darkali and Gram Panchayat Kashapat, Gram Panchayats of Rampur Tehsil of District Shimla.
5. Pandrah Bis Pargana of Kullu District.
6. Bara Bhangal Areas of Baijnath Sub-Division of Kangra District.
7. District Kinnaur.
8. Kathwar and Korga Patwar Circles of Kamrau Sub Tehsil, Bhaladh Bhalona and Sangna Patwar Circles of Renukaji Tehsil and Kota Pab Patwar Circle of Shillai Tehsil, in Sirmour District.

9. Khanyol-Bagra Patwar Circle of Karsog Tehsil, Gada-Gussaini, Mathyani, Ghanyar, Thachi, Baggi, Somgad and Kholanal of Bali-Chowki Sub-Tehsil, Jharwar, Kutgarh, Graman, Devgarh, Trilla, Ropa, Kathog, Silh-Badhwani, Hastpur, Ghamrehar and Bhatehar Patwar Circle of Padhar Tehsil, Chiuni, Kalipar, Mangarh, Thach-Bagra, North Magru and South Magru Patwar Circles of Thunag Tehsil and Batwara Patwar Circles of Sunder Nagar Tehsil in Mandi District.

(1) In all cases of promotion, the continuous adhoc service rendered in the feeder post, if any, prior to regular appointment to the post shall be taken into account towards the length of service as prescribed in these rules for promotion subject to the condition that the adhoc appointment/promotion in the feeder category had been made after following proper acceptable process of selection in accordance with the provisions of Recruitment and Promotion Rules;

Provided that in all cases where a junior person becomes eligible for consideration by virtue of his/her total length of service (including the service rendered on adhoc basis, followed by regular service/appointment) in the feeder post in view of the provisions referred to above, all persons senior to him/her in the respective category/post/cadre shall be deemed to be eligible for consideration and placed above the junior person in the field of consideration;

Provided further that all incumbents to be considered for promotion shall possess the minimum qualifying service of at least three years or that prescribed in the Recruitment and Promotion Rules for the post, whichever is less;

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the preceding proviso, the person(s) junior to him/her shall also be deemed to be ineligible for consideration for such promotion.

Explanation.—The last proviso shall not render the junior incumbent(s) ineligible for consideration for promotion if the senior ineligible persons happened to be ex-servicemen recruited under the provisions of Rule 3 of the Demobilized Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority thereunder or recruited under the provisions of Rule 3 of the Ex-Servicemen (Reservation of Vacancies in the Himachal Pradesh Technical Services) Rules, 1985 and having been given the benefit of seniority thereunder. (2) Similarly, in all cases of confirmation, continuous adhoc service rendered on the feeder post, if any, prior to the regular appointment against such post shall be taken into account towards the length of service, if the adhoc appointment/promotion had been made after proper selection and in accordance with provision of the Recruitment and Promotion Rules;

Provided that inter-se-seniority as a result of confirmation after taking into account, adhoc service rendered as referred to above shall remain unchanged.

12. If a Departmental Promotion Committee exists, what is its composition?.—To be presided over by the Chairman, HP Public Service Commission or a Member thereof to be nominated by him.

13. Circumstances under which the Himachal Pradesh Public Service Commission is to be consulted in making recruitment.—As required under the law.

14. Essential requirement for a direct recruitment.—Not applicable.

15. Selection for appointment to post by direct recruitment.—Not applicable.

16. Reservation.—The appointment to the service shall be subject to orders regarding reservation in the service for Scheduled Castes/Scheduled Tribes/Other Backward Classes/Other Categories of persons issued by the Himachal Pradesh Government from time to time.

17. Departmental Examination.—Every member of the service shall pass the Departmental Examination as prescribed in the H.P. Departmental Examination Rules, 1997.

18. Powers to relax.—Where the State Government is of the opinion that it is necessary or expedient to do so, it may, by order for reasons to be recorded in writing and in consultation with the Himachal Pradesh Public Service Commission relax any of the provision(s) of these Rules with respect to any Class or Category of person(s) or post(s).

“मज़बूत लोकतन्त्र—सबकी भागीदारी”

निर्वाचन विभाग, हिमाचल प्रदेश सरकार

ब्लॉक नम्बर—38, एस.डी.ए. कॉम्प्लैक्स, कसुम्पटी, शिमला—171009

संख्या: 5-13/2011-ईएलएन. दिनांक: 30 सितम्बर, 2013

अधिसूचना

प्रशासनिक सुधार विभाग, हिमाचल प्रदेश सरकार के पत्र संख्या पीईआर(एआर)ए(4)1/2007, दिनांक 25 जून, 2007 तथा पीईआर(एआर)एफ(7)2/98, दिनांक 3 अगस्त, 2007 द्वारा जारी अनुदेशों के अनुसरण में, निर्वाचन विभाग द्वारा अपनी वार्षिक सामान्य प्रशासनिक रिपोर्ट 2012-2013 में सूचना का अधिकार अधिनियम, 2005 की धारा 4 की उप-धारा 1 (बी) में दर्शाए गए बिन्दुओं पर आधारित समस्त सूचना को सम्मिलित करके दिनांक 11-9-2013 को विभागीय वेबसाइट <http://ceohimachal.nic.in> पर अपलोड कर दिया गया है।

अतः हिमाचल प्रदेश की राज्यपाल, निर्वाचन विभाग की वेबसाइट <http://ceohimachal.nic.in> पर अपलोड विभाग की वार्षिक प्रशासनिक रिपोर्ट 2012-2013 को इस अधिसूचना के राजपत्र में प्रकाशित होने की तिथि से जन-साधारण की जानकारी हेतु अधिसूचित करने के सहर्ष आदेश देती है।

आदेश द्वारा,
हस्ता० /—
प्रधान सचिव (निर्वाचन)।

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 21-9- 2013

No. Sharm (A) 7-1/2005-Part File-1.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court

Shimla on the website of the Department of Labour & Employment of the Government of Himachal Pradesh:—

Sr .N o:	Case No: August,2013	Title of the Case	Date of Award
1.	35/2011/2003	Shri Lachman Dass V/s Indian oil corp. Ltd.Solan.	2-8-2013
2.	41/2012	President, Shriniwas V/s M/s Shriniwas (Gujrat) Labooratries Solan.	2-8-2013
3.	1/2010	Baljeet Singh V/s M/S Himalya International Ltd. & others.	5-8-2013
4.	92/2010	Smt Ranjna Singh V/s M/s Winsome Remedies Pvt. Ltd. Baddi.	27-8-2013
5.	41/2006	Shri Salim Ahmed V/s HPPWD & I&PH State workshop.	30-8-2013
6.	104/2007	Mazdoor Panchyat V/s HPPWD/I&PH State workshop.	30-8-2013

By order,
UPMA CHAUDHARY,
Pr. Secretary (Labour & Employment).

R-104/07

The General Secretary Nahan Foundary Mazdoor V/S HPPWD/IPH State Workshop Nahan.

30.8.2013 Shri Salim Ahemed, General Secretary, Nahan foundry Mazdoor
Prersent Panchayat Union along-with Shri A.K. Gupta, Advocate for petitioner.

Shri Mahesh Sen, Ld. DA for respondent.

Vide separate statement made by Shri Salim Ahmad General Secretary, Nahan Foundary Mazdoor Panchyat Union, the reference, which has been made to this Court by the appropriate government, is not being pressed in view of the judgment dated 23.11.2011 passed by the Hon'ble High Court on CWP No. 4491 of 2007 along-with seven other connected matter and also that Nahan Foundary Mazdoor Panchyat Union is contemplating to move the Hon'ble High Court for the redressal of their grievances arising out of their seniority, integrated in PWD and IPH departments. Consequent upon the statement, made by Shri Salim Ahmad, the reference, which has been made to this Court by the appropriate government, stands disposed of/answered accordingly. The statement, made by Shri Salim Ahemad, General Secretary, Nahan Foundary Mazdoor Panchyat Union, shall from part and parcel of this order/awards. Let a copy of this order/awards be

sent to the appropriate government for publication in the office gazette. File, after completion, be consigned to records.

Announced:
30-8-2013

*Presiding Judge,
Labour Court, Shimla.
Camp at Nahan.*

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, SHIMLA

Ref No. 1 of 2010
Instituted on 15.2.2010
Decided on 5.8.2013

Baljeet Singh S/o Shri Bagicha Singh R/o Village Amarkot, P.O. Nihalgarh, Tehsil Paonta Sahib, District Sirmour, HP. . . *Petitioner.*

VS.

1. M/s Himalya International Ltd., Shubhkhera, Tehsil Paonta Sahib, District Sirmour, H.P.
2. The Senior Manager (Administration) M/s Himalya International Ltd., Shubhkhera, Tehsil Paonta Sahib, District Sirmour, H.P. . . *Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Ms. Veena Sood, Advocate.
For respondent : Shri Hardeep Verma, Advocate.

AWARD

The reference for adjudication, is as under:-

"Whether the termination of services of Shri Baljeet Singh S/o Shri Bagicha Singh by the Senior Manager (Administration) M/s Himalya International Ltd., Shubhkhera, Tehsil Paonta Sahib, District Sirmour, HP w.e.f. 3.1.2009 without holding any domestic enquiry is legal and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?"

2. It is alleged that the petitioner was appointed as workman with M/s Himalya International Ltd., Shubhkhera, Tehsil Paonta Sahib, District Sirmour, HP (hereinafter referred as respondent no.1). In the said concern (respondent no.1), the job and responsibility of the petitioner was to control temperature, suitable to grow mushrooms and to freeze the same, as well as other vegetables, fruits etc., in suitable climatic conditions. For the last fifteen years, he had been working with the respondents. On 5.1.2009, he was issued a notice regarding calling for his explanation for having used foul and rough language with General Manager, Administration (hereinafter referred as General Manager), during telephonic conversation. On 7.1.2009, he sub-

mitted his reply averring therein that on 2.1.2009, when he had gone to take wages for the month of November, 2008, he was told that his wages stood stopped. In this regard, he had asked reasons from the General Manager, on telephone. Neither, at that time, he had misbehaved with him nor used foul and rough language. In fact, the said conversation had taken place in the presence of other workmen. It is further averred that on 3.1.2009, when he presented himself on the gate of respondent no.1, his gate entry was stopped. On 31.1.2009, he had submitted another letter asking the respondents to take him back on duty as he had never misbehaved with the General Manager. On 10.2.2009, he was issued another letter, seeking his explanation and also to tender apology. He filed reply thereto vide letter dated 25.2.2009 averring therein that he had been working with utmost honesty and devotion and that he never misbehaved with any officials of the respondents. His letter dated 25.2.2009, was replied by the management of the respondents on 26.3.2009 wherein it was stated that he had indulged in acts of misbehavior with the General manager during telephonic conversation, with him, and that the same cannot be tolerated. Vide letter dated 27.3.2009, he replied the letter dated 26.3.2009, by denying the allegations of misconduct as levelled against him. It is further alleged that his services had been terminated in violation of the principles of natural justice, without giving him fair hearing. Even, no enquiry was conducted against him for the alleged misconduct. In this way, the principles of natural justice were violated. It is further explained that he had been given the designation of supervisor just for the sake of designation. In fact, he had been doing the manual work. It is further clarified that he had no authority either to grant leave or to appoint workers or to make appraisal of their work. Thus, he was a workman under section 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred as Act). It is further averred that his services had been terminated in violation of section 25-N of the Act. Since the date of his termination, he has been unemployed. Against this backdrop, a prayer has been made to reinstate him along-with back wages and other consequential service benefits.

3. By filing reply, the respondents contested the claim of the petitioner on having raised various preliminary objections including that he is not a workman as defined under section 2(s) (iv) of the Act and that he is estopped to file the petition on account of his act and conduct. On merits, it has been asserted that the petitioner had been appointed on 1.11.1995, as supervisor and not a workman, as alleged. It is denied that the petitioner had been doing manual work, required for the growth of the mushrooms. In fact, the petitioner had been entrusted the work to supervisor the work of more than 350 workers, doing manual work, in the compost unit of the factory. It is admitted that he had been issued show cause notices dated 5.1.2009 and 31.1.2009 for misbehavior and also for using rough and foul language with General Manager and other senior officers. As per show cause notice dated 5.1.2009, he had been asked to explain his conduct as to why he misbehaved with the General Manager by using dirty language on telephone. By denying the charges, he (petitioner) had tried to justify his misbehave. Further, instead of having tendered apology, the petitioner again submitted another letter dated 31.1.2009, whereby he had asked the respondents to take him back on duty. In reply to his such letter, the respondents asked him to tender apology for his conduct and then to join the duties. Consequent thereupon, the petitioner again came forward with another letter dated 25.2.2009, wherein, he denied all the charges and tried to justify his conduct. It is further averred that vide letter dated 26.3.2009, the respondents had told the petitioner that his reinstatement could have been only considered if he was ready to tender unconditional apology for his alleged misbehavior. Even, the petitioner had been got asked through his colleagues to join the duties, on having done the needful, but of no avail. In these circumstances, the respondents had been left with no other alternative but to terminate his services. It has been denied that there had been violation of the principles of natural justice. Since, the petitioner was not a workman as per section 2(s) (iv) of the Act, there was no violation of section 25-N of the Act. It has further been stated that the petitioner had been making a ground for leaving his job since 2008. In that year, he had been issued three warnings for his conduct for being negligent and also to have used abusive language. Once, he had been found drunk during duty time. On one occasion, on account of his negligence, one hall of the compost unit got heated-up, as a result of which more than 50% of the

compost got spoiled. Other allegations denied.

4. By filing rejoinder, the petitioner reaffirmed his own allegations by denying those of the respondents.

5. Pleadings of the parties gave rise to the following issues which were struck on 15.12.2010.

1. Whether the services of the petitioner Baljeet Singh have been terminated by the respondent in an illegal manner without complying the provisions of Industrial disputes Act, 1947 as alleged? . . . OPP.
2. Whether petitioner is not a workman as alleged? . . . OPR.
3. Whether petitioner is estopped to file this petition by his act and conduct as alleged? . . . OPR.
4. Whether this petition is not maintainable as alleged? . . . OPR.
5. Relief.

6. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons, to be recorded hereinafter, my findings on the aforesaid issues are as under:

Issue No. 1	Yes.
Issue No. 2	No
Issue No. 3	No.
Issue No. 4	No.
Relief.	Reference answered in favour of the petitioner and against the respondents as per award.

Issue No. 1

8. It has been specifically alleged by the petitioner that he was appointed as workman by the respondents in order to do manual work in their unit/concern. On 5.1.2009, his explanation had been sought, through notice, for alleged misbehavior and using foul and rough language with the General Manager which he replied vide letter dated 7.1.2009 wherein he denied all the allegations. On 3.1.2009, when he had presented himself on the gate of the factory, his entry was stopped. Thus, the contention of the petitioner is to this effect that his services had been terminated in violation of the provisions of the Act and also without complying with the principles of natural justice.

9. On the contrary, the defence version is to this effect that since, the petitioner had used rough and foul language with the General Manager and other senior officers, he had been issued show cause notice dated 5.1.2009 whereby his explanation had been called but instead of tendering apology, he denied all the allegations. From the reply, which has been filed by the respondents, it appears that since, the petitioner had failed to tender apology for his alleged misconduct, the respondents had left with no other alternative but to terminate his services. It has also been alleged by the respondents that the petitioner was not a workman as per section 2(s) (iv) of the Act because

he had been appointed on 1.11.1995, as supervisor. For his being not a workman, there had been no violation of section 25-N of the Act.

10. When, the petitioner appeared in the witness box as Pw-1, he stated that in the year, 1995, he had been appointed as beldar in the mushroom unit of the respondents. Thereafter, he was appointed as security guard. When, his services were terminated, at that time, his duty/work was to control the temperature of the compost unit. He had never misbehaved with his seniors. Since, for the month of November, 2008, his payment had been withheld and that the same was paid in the month of Jan., 2009, for this reason, he had, telephonically, asked the General Manager, as to why, his payment had been stopped/withheld. To his such query, The General Manager had not given any reply. On 3.1.2009, when he went to join duty, he was stopped at the gate. Vide letter Ex. P-1, his explanation had been called which he replied vide Ex. P-2. Thereafter, neither any enquiry was conducted nor he was served with any chargesheet. In this way, without giving him a hearing, he was terminated from services. At no point of time, he had done supervisory work. Neither it was his duty to get the attendance of the workers marked nor he was competent to sanction leave to them. In the cross-examination, he denied that he was appointed as supervisor. He admitted that prior to the alleged incident, he had been issued warnings. He admitted that the management of the company had insisted that he should tender apology in writing. To this he had explained that since, he had not committed any mistake, there was no question of his tendering apology.

11. Shri Devender Chauhan (PW-2), has appeared in the witness box to state that he knows the petitioner with whom, he had worked for five years in the Himalya Internationals. The behavior of the petitioner, with the seniors, was good. He, along-with petitioner, had been doing manual work in the factory. In the cross-examination, he stated to have joined the respondent company on 1.5.2003. On 28.3.2008, he left his job. He denied not to have worked in the company. He does not have the identity card. Self stated that the same was not issued to him.

12. Shri B.K Sharma (RW-1) in his affidavit Ex. RW-1/A has supported all the facts as narrated in the reply including that on 1.11.1995, the petitioner had been appointed as supervisor and entrusted with the duties to supervise the work of the workers, working in the compost unit of the factory. On 5.1.2009, he had been issued a show cause notice for misbehavior and using foul language with the General Manager and other senior officers of the company, including him. In the reply, filed by the petitioner, he denied all the charges and tried to justify his behavior. The respondent company was ready to reinstate him if he had tendered unconditional apology for his conduct and unruly behavior. Vide letter dated 25.2.2009, he had refused to tender apology and tried to justify his behavior. Thus, the respondents were left with no other alternative but to terminate his services. Ex. RW-1/B, is the letter/explanation dated 5.1.2009, the reply thereto is Ex. RW-1/C. In the cross-examination, he stated that on the case file, there is no authority letter as per which, he has been authorized to depose on behalf of the respondents. He admitted that the petitioner had been doing the work to control the temperature of the mushroom unit and that his duty was manual. He specifically admitted that he had been working as a workman with the respondents. Neither, the petitioner was assigned the duty to supervise the attendance of the workers, nor, he granted leave to them. No domestic enquiry had been conducted against him for the alleged misbehavior. He admitted that the entry of the petitioner had been stopped on the gate of the factory.

13. When regard is given to the cross-examination of Shri B. K. Sharma (RW-1), it is abundantly clear that even he admits that the petitioner had been appointed as worker by the respondents and not as supervisor. His evidence further goes to show that no domestic enquiry had been conducted against the petitioner, whose entry in the factory had been stopped on the gate. Here, I would like to point out that if the petitioner had misbehaved with the General Manager by using abusive language, as alleged, and that his reply had not been found to be satisfactory,

consequent upon the show cause notice, issued to him, a domestic enquiry was required to be conducted against him for such alleged misconduct. As per the respondents, the services of the petitioner were required to be terminated because he had not tendered written apology for his alleged misbehavior/misconduct. In his reply, which the petitioner had filed, in response to explanation dated 5.1.2009 (Ex. P-1), he explained vide Ex. P-2 dated 7.1.2009, that in the telephonic conversation which he had with Shri Raghuvir, he had only tried to know as to why his pay for the month of November, 2008 had been withheld. At that time, he had not used any abusive language. I may reiterate that if, such reply of the petitioner had not been found to be satisfactory, by the respondents, and that further action was to be taken against him, the respondents were required to hold a domestic enquiry against him for the alleged misconduct. It is not legally justified for the respondents to have terminated his services on the ground that he had refused to tender apology, in writing.

14. Apart from this, I may observe that since, the petitioner had continued to remain in service w.e.f. 1.1.1995 till the date of his termination, he could have been retrenched, only as per the provisions, as mentioned in section 25-N of the Act and not otherwise. In the instant case, the respondents have not complied with the provisions of section 25-N of the Act. In these circumstances, when, neither any domestic enquiry had been conducted against the petitioner nor, the respondents had complied with the requirements of section 25-N of the Act, I without hesitation hold that his termination w.e.f. 3.1.2009 is illegal and unjustified. Thus, my answer to this issue is “Yes”.

Issue No. 2

15. Although, a plea has been taken by the respondents that the petitioner is not a workman as per section 2(s) (iv) of the Act but when regard is given to the evidence of respondents (RW-1), it is quite clear that he (petitioner) was not doing supervisory work. This witness (RW-1) has also categorically stated that the petitioner had been doing manual work and that at no point of time, he had done supervisory work, such as to get the attendance of the workers marked and to sanction them leave. Thus, the respondents fail to prove that the petitioner was not a workman. Accordingly, my answer to this issue is “No”.

Issue No. 3 & 4

15. Both these issues are taken up together. No evidence has been led by the respondents in order to show that as to how the petitioner is estopped to file this petition by his act and conduct. It is to be mentioned that when the services of the petitioner were terminated, he had raised an industrial dispute and that when conciliation proceedings failed, the appropriate government made a reference to this Court. Consequent upon the issuance of notice to him, by this Court, on the receipt of reference, he filed statement of claim. In these circumstances, it cannot be said that in any manner, whatsoever, he has been estopped to file this petition. Since, the respondents have failed to establish that the petitioner was not a workman as per section 2(s) (iv), this petition cannot be said to be not maintainable. Consequently, for what has been stated and observed above, my answer to both these issues is “No”.

Relief

As a sequel to my findings on the aforesaid issues, the claim petition is allowed with the result the termination of the petitioner w.e.f. 3.1.2009, is set aside and he is ordered to be reinstated in service with seniority and continuity. Having regard to the manner, in which, the services of the petitioner had been terminated and further that there is no evidence, on record, that he is gainfully employed, I order that his reinstatement shall be along-with 25% of wages w.e.f. 3.1.2009 till his

reinstatement. Consequently, the reference stands answered in favour of the petitioner and against the respondents. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 5th August, 2013.

A.S. JASWAL,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, SHIMLA CAMP AT NALAGARH

Ref No. 35/2011/2003.

Instituted on 10/9/2003 and 8/8/2011.

Decided on 2.8.2013

Lachman Dass S/o Shri Hari Ram VPO Doh, Tehsil Bhoranj, District Hamirpur, HP.

.. Petitioner.

VS.

1. M/s Indian Oil Corporation Ltd., Indane Bottling Plant, Plot No. 1, Industrial Area Baddi, District Solan, HP. Principal Employer.

2. M/s Himachal Security Services, through Inder Kumar Bali contractor Indian Oil corporation, Baddi.

.. Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J. C. Bhardwaj, AR

For respondent No.1: Shri Paul S Saini, Advocate.

For respondent No. 2: Ex-parte.

AWARD

The reference for adjudication, is as under:-

“क्या श्री लक्ष्मन दास पुत्र हरी राम सुरक्षाकर्मी को ठेकेदार हिमाचल सिक्यूरिटी सर्विसेज तथा मुख्य नियोक्ता इंडियन आयल कारपोरेशन, बॉटलिंग प्लांट, बद्दी द्वारा औद्योगिक विवाद अधिनियम, 1947 में दिए गए प्रावधानों की अनुपालना किए बिना दिनांक 20-11-2002 को नौकरी से निकाला जाना उचित व न्यायसंगत है? यदि नहीं, तो उक्त कामगार किन सेवा लाभों एवं राहत का पात्र है ?”

2. The contention of the petitioner is to this effect that in the month of August, 2001, he was employed as security guard by the competent officers of respondent no.1. Despite the fact that he had been rendering services of perennial, in nature, to the company (respondent No. 1) but due to unfair labour practice, his name was enrolled with Shri Inder Kumar Bali, so called contractor of M/s Himachal Security Services (hereinafter referred as respondent no.2). As a matter of fact, this contract is not genuine but a camouflage one. In this way, he (petitioner) had kept on serving under respondent no.1 till 20.11.2002, when his gate entry was not allowed on the plea that his services

were no longer required by the company (respondent no.2). At that time, it had been brought to his notice that his services were under respondent no.2. It is further alleged that he (petitioner) had never seen anyone as contractor. Had there been any such contractor, he was fictitious and forged act on the part of both the respondents, be playing unfair labour practices. Moreover, the petitioner had always remained under the administrative and financial control of respondent no.1. It is further stated that it was doubtful that the contractor has been issued a licence by a competent authority of Himachal Pradesh as required under the Contract Labour (Abolition and Regulation Act, 1970) (hereinafter referred as Contract Labour Act). In this way, the petitioner always remained to be the workman of respondent no.1 for all intends and purposes. Since, he had completed more than 240 days in twelve calendar months in the employment of respondent no.1, he was entitled to be given the protection under the Labour Law Legislation. Thus, the respondents were statutorily and mandatorily bound to have complied with the requirements of section 25-F of the Act before terminating his services.

Neither, he had been served with any notice as required under the Act nor paid retrenchment compensation. Further, during his entire service, neither respondent no.1 nor respondent no.2 had served any chargesheet upon the petitioner. Against this backdrop, a prayer has been made for setting aside his illegal retrenchment dated 20.11.2002 with full back wages, seniority and other consequential benefits.

3. Respondent no.1 has contested the claim of the petitioner on having raised various preliminary objections including jurisdiction. It has been clarified that since, the replying respondent is a controlled industry, in view of the notification dated 21st June, 1984 issued by the Department of Labour, Ministry of Labour and Rehabilitation, Government of India under section 2 of Industries (Development and Regulation) Act, 1951 which was subsequently renewed through another notification dated 20.6.1986 which came to be further renewed via notifications dated 13.6.1988, 13.6.1990, 8.5.1992, 6.5.1994, 21.6.1996, 28.12.1998 and 16.1.2001, for this reason, the appropriate government in relation to the replying respondent (respondent no.1) was Central Government as defined under section 2 (1) (a) of the Contract Labour Act and section 2 (a) (i) of the Industrial Disputes Act, 1947 (hereinafter referred as Act). Since, the reference had not been made by the appropriate government (Central government), as was required to be made, to this Court, for this reason, this Court has got no jurisdiction to decide the reference which is without jurisdiction. On the basis of facts, as narrated above, a prayer was made for deciding the issue of jurisdiction at first instance by treating it as a preliminary issue.

4. Before I proceed further, I may mention that as per award dated 16.3.2006, the claim petition of the petitioner was allowed and he was ordered to be reinstated in service from 20.11.2002 with all back seniority as well as back wages @ 25% from the said date i.e 20.11.2002 till his reinstatement.

5. The aforesaid award of this Court was assailed in the Hon'ble High court by way of writ petition which came to be registered as CWP No. 2471/2008. As per order of Hon'ble High court dated 15.6.2011, the impugned award dated 16.3.2006, of this Court, was set aside and the matter was remanded to this Court for deciding it afresh after issuing notices to all concerned. It was also ordered that the contesting parties were to take all the pleas, as available to them, before this Tribunal including that of jurisdiction.

6. When, the case was received in this Court, after remand, notices were issued to the parties. Whereas, on behalf of petitioner, Shri J. C. Bhardwaj, AR put his presence, on behalf of respondent No.1 Shri R. D. Thakur, Advocate appeared. As per order dated 4.1.2013, notice was also ordered to be issued to respondent no.2 through publication in Rajpatra and Hindustan Times for 14.2.2013. On the fixed date i.e 14.2.2013, the notice was duly published in Rajpatra but none

appeared on behalf of respondent No. 2. Thus, respondent No. 2 was ordered to be proceeded against exparte.

As per said order dated 14.2.2013, the case was fixed for the evidence of the petitioner for 29.3.2013. Again, the case came to be fixed for the evidence of the petitioner for 28.5.2013 as last opportunity. Since, on 28.5.2013, neither the petitioner appeared in the witness box, as his own witness, nor some other witnesses were present, hence, his evidence was closed by the order of the Court. Thereafter, the case was fixed for the evidence of respondent no. 1 for 3.7.2013. Since, on the said date, respondent no.1 also failed to lead evidence, its evidence was also closed by the Court orders.

7. Besides having heard the arguments advanced on behalf of the parties, I have also gone through the material on record carefully.

8. First of all, it needs to be clarified that although, the petitioner had examined himself, as PW-1, on 10.5.2005 as his own witness but his such statement had been recorded when both the respondents (respondent no.1 & 2) had been proceeded against exparte and on the basis of the same, this Court, passed exparte award dated 16.3.2006. When the case again came up before this Court, after remand, as per order of Hon'ble High court, dated 15.6.2011, passed in CWP No. 2471 of 2008, the petitioner had again been asked/directed to lead evidence as per order dated 14.2.2013 but he failed to lead any evidence despite opportunities and ultimately, as per order dated 28.5.2013, his evidence was closed. Even, contesting respondent no.1 also failed to lead evidence despite having been afforded opportunity and for this reason, its evidence was also ordered to be closed, by this Court, as per order dated 3.7.2013.

9. Since, the petitioner has failed to lead evidence after the remand of the case, his earlier evidence dated 10.5.2005 cannot be read by this Court because respondent no.1 who contested this petition, after the remand of the case, was not afforded opportunity to cross-examine him. In these circumstances, there is no evidence, whatsoever, led by the petitioner, in order to prove that his disengagement/termination of services as security guard w.e.f. 20.11.2002 is in contravention of the mandatory provisions of section 25-F of the Act. Only, if he had appeared in the witness box, it could have been stated by him, on oath, that he had been in continuous service of either respondent no.1 or respondent No. 2 and for this reason, if his services were required to be disengaged/terminated, provisions of section 25-F were to be complied with. Here, I may like to point out that as per the contention of the petitioner, he was employed by respondent No.1 as security guard and that he did not consider himself to be the employee of respondent No. 2, the alleged contractor. It has also been specifically mentioned that the contractor had no licence issued by the competent authority to hire workers. Thus, it is the clear case of the petitioner that he was in the employment of respondent No.1 as security guard and that respondent No.2 had no concern, whatsoever, as far as his such employment under respondent No. 1 was concerned.

10. As already stated above, the petitioner has not led any evidence that he had continued to remain in the continuous service of respondent No. 1 on having put in 240 days preceding to his disengagement/termination. For his failure to have established so, his contention that his termination/disengagement, without having complied with the requirements of section 25-F of the Act, is not proved, on record. Thus, for want of evidence, his petition deserves to be dismissed.

11. Since, a legal objection has also been raised by respondent no.1 that since, it is a controlled industry, as per various notifications issued by the Department of Labour, Ministry of Labour and Rehabilitation, Government of India under section 2 of Industries (Development and Regulation) Act, 1951, for this reason, the appropriate government in its relation was Central Government as defined under the Contract Labour Act and not the State Government (H.P), which

in this case has made a reference to this Court. On the record, the contesting respondent no.1 has brought the true copies of various notifications, issued in this behalf, by the Government of India. Here, it is to be noted that no rejoinder had been filed to the reply which was filed by respondent No. 1. In the absence of rejoinder, the contention raised by respondent no.1 that it is a controlled industry, in view of the various notifications, as aforesaid, goes uncontroverted. Along-with reply, which has been filed on behalf of respondent no.1, copy of judgment of Hon'ble High Court of Allahabad has been filed titled as Indian Oil Sharmik Sangh,² and another Vs. Presiding Officer, Industrial Tribunal III, UP Kanpur and others Civil MISC. Writ Petition No. 26047 of 1990 wherein it was held that LPG industry would also be deemed controlled industry within the meaning of section 2(a)(1) of the Act. Reliance has also been placed on another judgment of Hon'ble High Court of Dehli, copy of which is annexure P-12, titled as Indian Oil Corporation Vs. Lt. Governor Dehli and another, passed in CWP No. 3334 of 1987, wherein it was held that in regard to the industry, in question, (namely petroleum industry), the appropriate government was the Central Government. I may mention that respondent no.1 has relied upon the aforesaid judgment, in the reply, filed by it. On the basis of the judgments, aforesaid, and also the reply, which has been filed by respondent no.1, I have no hesitation in holding that respondent no.1 (M/s Indian Oil Corporation Ltd.) is a controlled industry in view of the various notifications issued by the Department of Labour, Ministry of Labour and Rehabilitation, Government of India under section 2 of Industries (Development and Regulation) Act, 1951. Thus, the appropriate government in relation to respondent no.1 was Central Government and not the State Government. Since, the reference to this Court has not been made by the Central Government, for this reason, in order to decide the matter/dispute between the parties, this Court also lacks jurisdiction.

12. Consequently, for what has been stated and observed above, the claim petition deserves to be dismissed and accordingly it is dismissed and in terms of the same, the reference stands answered accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 2nd August, 2013.

A. S. JASWAL,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla
Camp at Nalagarh.

30.8.2013 Shri Salim Ahmad, General Secretary, Nahan foundry

Present: Mazdoor Panchyat Union along-with Shri A.K Gupta, Advocate for petitioner.
Shri Mahesh Sen, Ld. DA for respondent.

Vide separate statement made by Shri Salim Ahmad General Secretary, Nahan Foundry Mazdoor Panchyat Union, the reference, which has been made to this Court by the appropriate government, is not being pressed in view of the judgment dated 23.11.2011 passed by the Hon'ble High Court in CWP No. 4491 of 2007 along-with seven other connected matter and also that Nahan Foundry Mazdoor Panchyat Union is contemplating to move the Hon'ble High Court for the redressal of their grievances arising out of their seniority, integrated in PWD and IPH departments. Consequent upon the statement, made by Shri Salim Ahmad, the reference, which has been made to this Court by the appropriate government, stands disposed of/answered accordingly. The statement, made by Shri Salim Ahmad, General Secretary, Nahan Foundry Mazdoor Panchyat Union, shall

form part and parcel of this order/award. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette. File, after completion, be consigned to records.

Announced:

30/8/2013.

Sd/-

*Presiding Judge,
Labour Court, Shimla.
Camp at Nahan.*

30.8.2013 Shri Salim Ahmad, General Secretary, Nahan foundry
Present: Mazdoor Panchyat Union along-with Shri A.K. Gupta, Advocate for petitioner.
 Shri Mahesh Sen, Ld. DA for respondent.

Vide separate statement made by Shri Salim Ahmad General Secretary, Nahan Foundry Mazdoor Panchyat Union, the reference, which has been made to this Court by the appropriate government, is not being pressed in view of the judgment dated 23.11.2011 passed by the Hon'ble High Court in CWP No. 4491 of 2007 along-with seven other connected matter and also that Nahan Foundry Mazdoor Panchyat Union is contemplating to move the Hon'ble High Court for the redressal of their grievances arising out of their seniority, integrated in PWD and IPH departments. Consequent upon the statement, made by Shri Salim Ahmad, the reference, which has been made to this Court by the appropriate government, stands disposed of/answered accordingly. The statement, made by Shri Salim Ahmad, General Secretary, Nahan Foundry Mazdoor Panchyat Union, shall form part and parcel of this order/award. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette. File, after completion, be consigned to records.

Announced:

30/8/2013.

Sd/-

*Presiding Judge,
Labour Court, Shimla.
Camp at Nahan.*

IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA

Ref No. 92 of 2010.
Instituted on 2.8.2010.
Decided on 27.8.2013

Ranjana Singh W/o Shri Akhilesh Singh R/o VPO Ramgarh, Tehsil Skadihan, District Chandoli, UP. . . *Petitioner.*

VS.

The Managing Director, M/s Wincare Remedies Pvt. Ltd., Village Sansiwala, P.O Barotiwala, Tehsil Baddi, District Solan, HP. . . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : None.

For respondent : None.

AWARD

The reference for adjudication, is as under:-

"Whether termination of the services of Smt. Ranjana Singh W/o Shri Akhlish Singh by the management of M/s Wincare Remedies Pvt. Ltd., Village Sansiwala, P.O Barotiwala, Tehsil Baddi, District Solan, HP w.e.f. 23.3.2009 without following the provisions of the Industrial Disputes Act, 1947, as alleged, by the workman, is proper and justified? If not, what relief and consequential service benefits the above worker is entitled to?"

2. Consequent upon the receipt of the reference, in this court, from the appropriate government, notices were issued to the petitioner as well as respondent. When, this case was fixed, for 27/8/2013, for the service of the petitioner as well as respondent, they failed to appear before this Court either in person or through counsel despite having been served, as per law.

3. Since, this reference is required to be answered, by this Court, despite the failure of the parties to have put their presence, I proceed to decide it on the basis of material which is available on record.

4. From the reference, which has been received by this Court, it appears that the services of petitioner (smt. Ranjana Singh) had been terminated by the management of respondent (M/s Wincare Remedies Pvt. Ltd., Village Sansiwala, P.O Barotiwala, Tehsil Baddi, District Solan, HP) without having followed the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act). Her such termination was assailed by the petitioner by raising a demand notice in which, the conciliation could not be affected despite the efforts put in by the conciliation officer. Thus, a reference, as aforesaid, came to be made to this court for adjudication.

5. For the failure of the petitioner to have filed statement of claim before this Court, there is no material available which could go to show that her services had been terminated by the management of the respondent w.e.f. 23.3.2009 without following the provisions of the Act. It is further to be noted that there is no statement of the petitioner, made on oath, which could substantiate her claim that her services had been terminated without following the provisions of the Act. When, such is the position, then, this court is constrained to hold that the petitioner has not succeeded in proving, on record, that her services had been terminated in violation of the provisions of the Act. Consequently, this reference is decided against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 27th August, 2013.

A.S JASWAL,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, SHIMLA CAMP AT NALAGARH

Ref No. 41 of 2012
Instituted on 14.6.2012
Decided on : 2.8.2013

President/ Secretary, Shriniwas (Gujrat) Laboratries Pvt.Ltd, Bagbania ,P.O.Mandura,
Tehsil Nalagarh, District Solan ..*Petitioner.*

VS.

The General Manager / Managing Director , M/s Shriniwas (Gujrat) Laboratries Pvt.Ltd,
Bagbania, P.O.Mandura, Tehsil Nalagarh, District Solan ..*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: None.

For respondent: Shri Rejeev Sharma , Advocate.

AWARD

The reference for adjudication, is as under:-

”Whether miscellaneous demands raised by President/Secretary, Shriniwas (Gujrat) Laboratries Pvt.Ltd, Bagbania, P.O. Mandura, Tehsil Nalagarh, District Solan. As per demand notice dated 23.7.2010(copy enclosed) to be fulfilled by the General Manager / Managing Director, M/s Shriniwas (Gujrat) Laboratries Pvt. Ltd, Bagbania, P.O. Mandura, Tehsil Nalagarh , District Solan , HP are legally justified and maintainable , If yes, what amount of monitory benefits, other facilities, service benefit sand compensation the concerned workmen of above establishment, are entitled to from the above employer/ Management?

2. Consequent upon the notice issued to the parties, Shri Rajeev Sharma, Advocate appeared for the respondent on 18.9.2012. Since, on the said date, the petitioner had not been served, fresh notice was ordered to be issued to it (President/Secretary, Shriniwas(Gujrat) Laboratries) Pvt. Ltd, Bagbania, P.O. Manpura, Tehsil Nalagarh , District Solan, HP) (hereinafter referred as petitioner).

3. Since, despite repeated issuance of notice to the petitioner, the service was not being effected, it was ordered, on 25.5.2013, that the service be effected upon the petitioner by way of affixation for 2.8.2013 . On the said date, the petitioner was served through affixation but none appeared before this court on its behalf. As the notice had been issued to the petitioner and that the same was served upon it, this court was satisfied that the petitioner, through affixation of notice, had been served in accordance with law.

4. As the reference, made to this Court by the appropriate government, was required to be answered, for the failure of the petitioner to have put its presence before this court, either through authorized representative or an Advocate, the same could not have been dismissed in default.

5. Thus, on the basis of the material available before this court, I proceed to answer the reference.

6. It is revealed from the material, on file, that pursuance to the miscellaneous demands raised by the President/Secretary, Shriniwas (Gujrat) Laboratries Pvt.Ltd, Bagbania ,P.O.Mandura, Tehsil Nalagarh, District Solan, HP (petitioner),as per demand notice dated 23.7.2010, before the General Manager/Managing Director, M/s Shriniwas (Gujrat) Laboratries Pvt.Ltd, Bagbania ,P.O.Mandura, Tehsil Nalagarh, District Solan , HP(respondent), settlement could not be arrived at between the parties during the conciliation proceedings which had been undertaken by the

conciliation Officer. Thus, the reference, as aforesaid, came to be made to this Court by the appropriate government.

7. Since, none appeared before this court for the petitioner, on having been duly served, in accordance with law, neither any statement of claim was filed nor there is any other material before this court in order to show that the demands raised by the President/Secretary, Shrinivas (Gujrat) Laboratories Pvt.Ltd, Bagbania, P.O.Mandura, Tehsil Nalagarh, District Solan, HP (Petitioner) are legally justified and maintainable. In these circumstances, there is no material to justify that the demands raised are legally maintainable. Thus, I have been left with no other alternative but to answer this reference against the petitioner and in favour of the respondent. Resultantly, the reference stands answered. Let a copy of this awards be sent to the appropriate government for publication in official gazette, File, after completion be consigned to record.

Announced in the open court today this day of 2nd August, 2013.

A.S. JASWAL,
Presiding Judge
Industrial Tribunal-cum
Labour Court, Shimla.

आबकारी एवं कराधान विभाग

अधिसूचना

शिमला-2, 3 अक्टूबर, 2013

संख्या: ई.एक्स.एन-एफ(10)7/2011.—हिमाचल प्रदेश की राज्यपाल, हिमाचल प्रदेश मूल्य परिवर्धित कर अधिनियम, 2005 (2005 का अधिनियम संख्यांक 12) की धारा 63 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस विभाग की अधिसूचना संख्या: ई.एक्स.एन-एफ(5)4/2005, तारीख 2 दिसम्बर, 2005 द्वारा अधिसूचित और राजपत्र, हिमाचल प्रदेश (असाधारण) में तारीख 7 दिसम्बर, 2005 को प्रकाशित हिमाचल प्रदेश मूल्य परिवर्धित कर नियम, 2005 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है; अर्थात्:—

1. **संक्षिप्त नाम और प्रारम्भ.**—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश मूल्य परिवर्धित कर (चतुर्थ संशोधन) नियम, 2013 है ।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से प्रवृत्त होंगे ।

2. **नियम 37-क का प्रतिस्थापन.**—हिमाचल प्रदेश मूल्य परिवर्धित कर नियम, 2005 (जिन्हें इसमें इसके पश्चात् “उक्त नियम” कहा गया है) के नियम 37-क के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

“37-क. कर, मांग और अन्य राशि का अनिवार्य इलैक्ट्रॉनिक संदाय.—नियम 37 में किसी बात के होते हुए भी ऐसी तारीख से और व्यौहारियों के ऐसे वर्ग द्वारा, जैसा/जैसे राज्य सरकार द्वारा विनिश्चित की जाए/किए जाएं, कर, मांग या किसी अन्य राशि का संदाय, आबकारी एवं कराधान विभाग की वेब पोर्टल के माध्यम से इलैक्ट्रॉनिकली किया जाएगा । जहां संदाय इलैक्ट्रॉनिकली किया जाता है, वहां प्राधिकृत बैंक कम्प्यूटर नेटवर्क के माध्यम से मू0प0कर प्ररूप-2-क में ई0 चालान बनाएगा । प्राधिकृत बैंक ऐसे ई0 चालान (जिसे ई-पेमेन्ट स्करोल कहा गया है) की विवरणी को, मू0प0 कर प्ररूप-42 में राज्य के सम्बद्ध खजाने को प्रतिदिन भेजेगा और ऐसी विवरणी की एक प्रति

महालेखाकार, हिमाचल प्रदेश को भी अग्रेषित की जाएगी। इन नियमों के प्रयोजन के लिए संदाय की तारीख वही होगी, जो मू0प0 कर प्ररूप-2-क में ई-चालान पर जमा करने की तारीख है।”।

3. नियम 40-ख का अन्तःस्थापन.— उक्त नियमों के नियम 40-क के पश्चात् निम्नलिखित नया नियम 40-ख अन्तःस्थापित किया जाएगा, अर्थात्:—

“40-ख.— हिमाचल प्रदेश मूल्य परिवर्धित कर अधिनियम, 2005 के अधीन रजिस्ट्रीकृत समस्त व्यौहारी, जो विवरणियों को इलेक्ट्रॉनिकली दाखिल करते हैं, और ऐसी विवरणी के अनुसार देय कर का ई-संदाय करते हैं, को ऐसी विवरणी को दाखिल करने के लिए विनिर्दिष्ट अन्तिम तारीख से पन्द्रह दिन के भीतर केवल ऑनलाईन दाखिल की गई वार्षिक विवरणी की हार्ड प्रति दाखिल करना अपेक्षित होगा। तथापि, व्यौहारी जो विवरणियों को ऑनलाईन मासिक/त्रैमासिक रूप से दाखिल करते हैं, परन्तु कर का संदाय मैनुअली करते हैं, से, उक्त नियमों के नियम 37 के उप-नियम (3) के अधीन यथा विनिर्दिष्ट चालान की ऑनलाईन विवरणी को दाखिल करने के सात दिन के भीतर “तीन प्रतियां प्रस्तुत करना अपेक्षित होगा।”।

आदेश द्वारा,
हस्ता0/—
प्रधान सचिव (आबकारी एवं कराधान)।

[Authoritative English text of this department notification No. EXN-F(10)-7/2011, dated 3/10/2013 as required under clause (3) of Article 348 of the Constitution of India].

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-171002 3rd October, 2013

No.EXN-F(10)-7/2011.— In exercise of the powers conferred by sub-section (1) of section 63 of the Himachal Pradesh Value Added Tax Act, 2005 (Act No. 12 of 2005), the Governor of Himachal Pradesh, is pleased to make the following rules further to amend the Himachal Pradesh Value Added Tax Rules, 2005, notified by this department notification No. EXN-F(5)-4/2005 dated 2nd December, 2005 and published in the Rajpatra, Himachal Pradesh (extra ordinary) dated 7th December, 2005, namely:—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Value Added Tax (Fourth amendment) Rules, 2013.

(2) They shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Substitution of rule 37-A.— For rule 37-A of the Himachal Pradesh Value Added Tax Rules, 2005 (hereinafter referred to as the said rules) the following shall be substituted, namely:—

“37-A. **Mandatory electronic payment of tax, demand and other sum.**— Notwithstanding anything contained in rule 37, from such date and by such class of dealers, as may be decided by the State Government, the payment of tax, demand or any other sum shall be made electronically through the web portal of the Excise and Taxation Department. Where the payment has been made electronically, the authorized bank shall generate e-challan in Form VAT-II-A through a computer network. The authorized bank shall also forward a statement of such e-challan (called as e-payment scroll) daily in Form VAT XLII to concerned treasury of the state and a copy of such statement shall also be forwarded to the Accountant General, Himachal Pradesh. The date of payment for the purpose of these rules shall be the date of deposit generated on the e-challan in Form VAT-II-A.”.

3. Insertion of rule 40-B.— After rule 40-A of the said rules, the following new rule 40-B shall be inserted, namely:—

“40-B. All registered dealers under the Himachal Pradesh Value Added Tax Act, 2005 filing returns electronically and making e-payment of the tax due according to such return, shall be required to file hard copy only of the annual return filed online within fifteen days of the last date specified for filing such return. However, the dealers filing monthly/quarterly returns online but making tax payments manually shall be required to submit the “triplicate” copy of the Challan as specified under sub rule (3) of rule 37 of the said rules within seven days of filing the online return.”.

By order,
Sd/-
Principal Secretary (E&T).

**In the Court of Shri Gian Sagar Negi, Sub-Divisional Magistrate, Shimla (Rural),
District Shimla, Himachal Pradesh**

Shri Deep Ram s/o Shri Rattan Lal, r/o Village Mahan, P.O. Baldeyan, Tehsil and District Shimla, Himachal Pradesh . . . *Applicant.*

Versus

General public . . . *Respondent.*

Whereas Shri Deep Ram s/o Shri Rattan Lal, r/o Village Mahan, P.O. Baldeyan, Tehsil and District Shimla, Himachal Pradesh has filed an application alongwith affidavit in the Court of undersigned under section 13 of the Birth and Death Registration Act, 1969 to enter the name and date of birth of Mr. Manish s/o Shri Deep Ram in the Birth and Death and Parivar Register in the G. P. Baldeyan. The Secy., G. P. Baldeyan has issued NAC No. on dated2013 the name.

Sl. No.	Name of the family member	Relation	Date of Birth
1.	Mr. Manish	S/o Shri Deep Ram	14-10-2009

Hence, this proclamation is issued to the general public if they have any objection/claim regarding registration of name and date of birth may file their claim/objection on or before one month of publication of this notice in Government Gazette in this court, failing which necessary orders will be passed from.

Given today 3rd October, 2013 under my signature and seal of the Court.

Seal.

GIAN SAGAR NEGI,
Sub-Divisional Magistrate Shimla (R),
District Shimla, Himachal Pradesh.

**In the Court of Shri Gian Sagar Negi, Sub-Divisional Magistrate, Shimla (Rural),
District Shimla, Himachal Pradesh**

Shri Chander Sain s/o Shri Salig Ram, r/o Village Kutasani, P.O. Bychari, Tehsil and District Shimla (H. P.) *Applicant.*

Versus

General Public

Respondent.

Whereas Shri Chander Sain s/o Shri Salig Ram, r/o Village Kutasani, P.O. Bychari, Tehsil and District Shimla, Himachal Pradesh has filed an application alongwith affidavit in the court of undersigned under section 13 of the Births and Deaths Registration Act, 1969 to enter the name and date of birth of Miss Aditi Thakur d/o Shri Chander Sain in the Birth and death and Parivar Register in the Gram Panchayat Bychari. The Secy. G.P. Bychari has issued NAC No. on dated 29-8-2013 the name.

Sl. No.	Name of the family member	Relation	Date of Birth
1.	Miss Aditi Thakur	d/o Shri Chander Sain	7-5-2009

Hence, this proclamation is issued to the general public if they have any objection/claim regarding registration of above name may file their claim/objections on or before one month of publication of this notice in Govt. Gazette in this court, failing which necessary orders will be passed from.

Given today 21st September, 2013 under my signature and seal of the court.

Seal.

GIAN SAGAR NEGI,
Sub-Divisional Magistrate Shimla (Rural),
District Shimla, Himachal Pradesh.

BYE- LAWS UNDER SECTION 202 (0) OF THE HIMACHAL PREDESH MUNICIPAL ACT, 1994 TO REGULATE THE POSTING OF BILLS HOARDING ADVERTISEMENT WITH IN THE LIMITS OF NAGAR PANCHAYAT SUJANPUR TIHRA DISTRICT HAMIRPUR (H.P).

No.1-A/NPS/2013-1591

Dated: 1/10/2013

1. SHORT TITLES COMMENCEMENT AND APPLICATION :

These bye laws may be called the "BYE-LAWS" to regulate the posting bills and fixing of advertisement, hoardings, sign boards etc.with in Sujanpur Tihra Nagar Panchayat limits, 2007.

- i) These Bye-laws shall come into force at once as per the directions of the Hon'ble High Court of Himachal Pradesh.
- ii) These Bye Laws shall apply the Jurisdiction of Nagar of Panchayat Sujanpur limits.

2. DEFINATION:

In these Bye- Laws under the contest otherwise requires

- (a) "Act" means the Himachal Pradesh Municipal Act, 1994.
- (b) "Bills "means any poster, notice and advertisement printed on paper or board or painted on Herding, sign boards or walls etc.,and hang on poles painted on walls etc.
- (c) "Panchayat "means the Local limit of Nagar Panchayat Sujanpur Tihra Distt. Hamirpur H.P.
- (d) "Schedule" means the schedule indicating the rate in respect of sign boards.

3. No person shall without the written permission of the Secretary Nagar Panchayat Sujanpur Tihra stick, fix or hang or cause to be fixed, stick of hang or paint bills, posters, advertisement, notice, even walls etc. , over any place or property whether private or public street or road in contravention of following conditions:-

- i) Hoardings, advertisement,/banners will not be allowed in the acquired width of the National/State high ways and other schedule roads and foot path as they cause traffic hazard and are against the instruction of the Govt. of India and Hon'ble Court.
- ii) No hoardings/ advertisement, banners should be allowed in and along Nagar Panchayat Parks/green areas except with the permission of the Nagar Panchayat, Sujanpur Tihra.
- iii) No Hoardings, advertisement, should be pit on the Baba Swaroopji, Murli Manohar, Kali Mata, Temple side above the road level including on the roofs of bui dings to preserve the aesthetic scenic beauty and the view of Temple.
- iv) No hoardings, advertisement, should be put at the place where effects endangers the grown of flora.
- v) No hoardings, advertisement should be located in thickly wooded area and no any kind of hoarding should be placed on trees.
- vi) No hoardings, advertisement should exceed dimension size of 16 Sq. Meters.
- vii) No hoardings, advertisement banners should be put in contravention of any law & rules against the guidelines notified by any department.
- viii) No hoardings, advertisement should locate near a water source.
- ix) No hoardings, advertisement should be in the form of writing engraving nailing and carving on any Natural of inanimate object.

- x) No hoardings, advertisement will be allowed on the roofs of the buildings nearby National/State Highways.
- xi) Only sign of premises are allowed up to 3 Sqm. Between slab and lintel of the building to the occupier/owner.
- xii) Discretionary sign to Govt. offices religious places will be allowed by the Nagar Panchayat Sujampur Tihra. The type, size and location of these shall be also approved by the Nagar Panchayat. The Nagar Panchayat keeping in view requisite site clearness so that there is no traffic hazard due to installation of such board.
- xiii) No person shall without the written permission of the Secretary, Stick fix or hang or cause to be stuck/fixed or hanged Hoardings, advertisement, banner notice etc. over any place or property whether private or public, S street or road.
- xiv) The Panchayat shall provide notice board for the purpose of stocking fixing or hanging posters notice and advertisement which shall be available for use on an application to be made to the Secretary on payment of fee provided for in these bye laws.
- xv) No hoardings, advertisement should be located/ positioned on a sharp turn "U" turn and blind turns.
- xvi) The beauty of nature for matters such as hills, rivers, trees and rock should not be destroyed by indiscriminate installation of commercial advertisement.
- xvii) No writing/defacing of retaining walls and parapets could be allowed.

EXEMPTIONS:

Shopkeepers/traders/firms/company could be allowed to place hoarding/advertisement/banners at shop/office on his own land with the permission of Nagar Panchayat Sujampur Tihra after depositing requisite fee.

4. Advertisement containing indecent pictures or language shall not be allowed. Secretary Nagar Panchayat Sujampur Tihra shall be the authority to decide as to the decency or other wise of the advertisement and the appeal against his decision shall be made to the Deputy Commissioner Hamirpur whose decision shall be final.

5. FEE FOR PERMISSION:

Installation fee @ Rs. 1000/- Per Sqm. Per annum shall be payable for every permission granted under Bye-Laws or minimum for per year.

6. PENALTIES:

Who so ever commits any breach of any of the Bye-Laws shall be punishable with fine of Rs 25/- which may extend to two hundred fifty rupees.

Secretary,
Nagar Panchayat
Sujanpur Tihra Distt. Hamirpur
H.P.

